

Stormwater Terms & Concepts

Maine Stormwater Management Law

Identification of watersheds of bodies of water most at risk. The department is required to establish a list of watersheds of bodies of water most at risk from new development. In regard to lakes, the list must include, but is not limited to, public water supply lakes and lakes identified by the department as in violation of class GPA water quality standards or as particularly sensitive to eutrophication based on current water quality, potential for internal recycling of phosphorus, potential as a cold water fishery, volume and flushing rate or projected growth rate in a watershed. The department is required to review and update the list as necessary. A municipality within the watershed of a body of water most at risk may petition the department to have the body of water added to or dropped from the list. See the Stormwater Management Law, 38 M.R.S.A. 420-D(3).

Identification of sensitive or threatened regions or watersheds. The department is required to establish by a list of sensitive or threatened regions or watersheds. These areas include the watersheds of surface waters that:

- A. Are susceptible to degradation of water quality or fisheries because of the cumulative effect of reasonably foreseeable levels of development activity within the watershed of the affected surface waters; and
- B. Are not classified as “watershed of bodies of water most at risk”. See the Stormwater Management , 38 M.R.S.A. 420-D(4).

Stormwater Management Law Standards. The department shall adopt rules specifying quantity and quality standards for storm water. Storm water quality standards for projects with 3 acres or less of impervious surface may address phosphorus, nitrates and suspended solids but may not directly address other dissolved or hazardous materials unless infiltration is proposed. Storm water quality standards under this law apply only in the direct watersheds of waterbodies most at risk from development and in sensitive or threatened geographic regions or watersheds defined by the department under subsection 4. Until such regions are defined, storm water quality standards are not required to be met by a permit applicant. See the Stormwater Management Law, 38, M.R.S.A. 420-D(1).

Other terms related to State and Federal Water Law

Waters of the State. *Waters of the State* are any and all surface and subsurface waters that are contained within, flow through, or under or border upon this State or any portion of the State, including the marginal and high seas, except such waters as are confined and retained completely upon the property of one person and do not drain into or connect with any waters of the State, but not excluding waters susceptible to use in interstate or foreign commerce, or whose use, degradation or destruction would affect interstate or foreign commerce. See the Protection and Improvement of Waters Law, 38 MRSA 361-A(7).

Water quality classification standards. *Water quality standards* are provisions of State or Federal law which consist of a designated use or uses for the waters of the United States and water quality criteria for such waters based upon such uses. Water quality standards are to protect the public health or welfare, enhance the quality of water and serve the purposes of the Act. 40 CFR 131.3(i). *Designated uses* are those uses specified in water quality standards for each water body or segment whether or not they are being attained. 40 CFR 131.3(f). *Criteria* are elements of State water quality standards, expressed as constituent concentrations, levels, or narrative statements, representing a quality of water that supports a particular use. When criteria are met, water quality will generally protect the designated use. 40 CFR 131.3(b)

Water quality standards are set by States, Territories, and Tribes. This requirement derives from Sec. 303 of the Clean Water Act, and is implemented through Maine's Water Classification and Waste Discharge Laws. They identify the uses for each waterbody, for example, drinking water supply, contact recreation (swimming), and aquatic life support (fishing), and the scientific criteria to support that use. Maine's Waste Discharge Law, generally speaking, regulates direct and indirect discharges of pollutants to waters of the State. See 38 MRSA 413. The recent "construction activity" and "MS4" general permits were adopted pursuant to this authority.

When a waterbody does not meet water quality standards.

Impaired waterbody. An *impaired* waterbody is a waterbody that is not attaining water quality criteria or standards, as determined by the Department. This is a commonly used EPA term. (Note: "non-attainment" has the same meaning).

"303(d) impaired waters". Under section 303(d) of the Clean Water Act, states are required to develop lists of impaired waters. These impaired waters do not meet water quality standards that states have set for them, even after point sources of pollution have installed the minimum required levels of pollution control technology. The law requires that states establish priority rankings for waters on the lists and develop TMDLs for these waters.

Total Maximum Daily Load (TMDL). A TMDL specifies the maximum amount of a pollutant that a waterbody can receive and still meet water quality, and an allocation of that amount to the pollutant's sources. For more information on the TMDL program, see <http://www.epa.gov/owow/tmdl/>